

110TH CONGRESS
2D SESSION

H. R. 6798

To amend title 38, United States Code, to establish a presumption of service connection for certain cancers occurring in veterans who served in the Republic of Vietnam and were exposed to certain herbicide agents, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2008

Mr. KAGEN (for himself, Mr. McDERMOTT, and Mr. BACA) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to establish a presumption of service connection for certain cancers occurring in veterans who served in the Republic of Vietnam and were exposed to certain herbicide agents, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress makes the following findings:

5 (1) Between 1962 and 1971, the Air Force
6 sprayed approximately 107 million pounds of herbi-

1 icides in South Vietnam for the purpose of defolia-
2 tion and crop destruction.

3 (2) It has been incontrovertibly established that
4 exposure to Agent Orange leads to long-term, sys-
5 temic health problems that can occur years after the
6 exposure.

7 (3) The amendments to title 38, United States
8 Code, enacted by the Veterans' Health Care Eligi-
9 bility Reform Act of 1996 (Public Law 104–262)
10 provide that a veteran does not have to demonstrate
11 a link between a certain health condition and expo-
12 sure to Agent Orange and other toxic substances
13 used during the Vietnam War in order to receive
14 certain medical care provided by the Secretary of
15 Veterans Affairs.

16 (4) Instead medical care is provided unless the
17 Secretary of Veterans Affairs has determined that
18 the condition did not result from exposure to Agent
19 Orange.

20 (5) The Veterans' Health Care Eligibility Re-
21 form Act of 1996 (Public Law 104–262) recognizes
22 the Institute of Medicine as a resource by which the
23 Secretary of Veterans Affairs should determine the
24 association between the occurrence of a disease and
25 Agent Orange.

1 (6) One established standard for the Secretary
2 of Veterans Affairs to deny a presumption of service
3 connection for a disability is that a disease shall be
4 established by the Institute of Medicine to have lim-
5 ited or suggestive evidence of no association between
6 the occurrence of the disease and exposure to herbi-
7 cide.

8 (7) Cancers of the gastrointestinal tract are
9 recognized by the Institute of Medicine to exceed the
10 statutory threshold for a presumption of service con-
11 nection.

12 **SEC. 2. PRESUMPTION OF SERVICE CONNECTION FOR CER-**
13 **TAIN CANCERS ASSOCIATED WITH EXPOSURE**
14 **TO HERBICIDES DURING THE VIETNAM ERA.**

15 Section 1116(a)(2) of title 38, United States Code,
16 is amended by adding at the end the following new sub-
17 paragraph:

18 “(I) Cancers of any tissues through the opening
19 of the gastrointestinal tract to the end, including
20 any and all carcinomas arising from tissues of endo-
21 dermal origin, beginning in the oral pharynx, extend-
22 ing through the esophagus, duodenum, cecum, trans-
23 verse and descending colon, as well as biliary and
24 pancreatic tissues, not to exclude the rectum, becom-

- 1 ing manifest to a degree of disability of 10 percent
- 2 or more.”.

